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Attorneys for Defendant

W.L. Petrey Wholesale Company, Inc.

An Alabama corporation

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

GBT TECHNOLOGIES, Inc. A Nevada
Corporation

Plaintiff,

v.

ROBERT WARREN JACKSON, an individual;
GREGORY BAUER, an individual; RWJ
ADVANCED MARKETING, LLC, a Georgia
Limited Liability Company; W.L. PETREY
WHOLESALE COMPANY, INC., an Alabama
corporation; DOES I-X, inclusive; and ROE
CORPORATIONS I-X, inclusive,

Defendants.

Case Number 2:20-cv-02078-APG-VCF

Assigned for All Purposes:

Hon. Andrew P. Gordon

Complaint filed: November 12, 2020

Trial Date : None

STIPULATION AND ORDER TO EXTEND DISCOVERY DEADLINES **(FIFTH REQUEST)**

Stipulation and Order to Extend Discovery Deadlines (Fifth Request)
GBT Technologies v. Robert Warren Jackson, et al.
Case No. 2:20-cv-02078-APG-VCF

Pursuant to LR 6-1 and LR 26-4, Defendants ROBERT WARREN JACKSON, GREGORY BAUER, and RWJ ADVANCED MARKETING, LLC, (the “RWJ Defendants”) and Defendant W.L. PETREY WHOLESALE COMPANY, INC. (“Petrey”), collectively “Defendants,” and Plaintiff GBT TECHNOLOGIES, INC. (“GBT” or “Plaintiff”), formerly Gopher Protocol, Inc., by and through their attorneys of record, hereby stipulate and request that this court extend discovery in the above-captioned case six (6) months, up to and including December 20, 2022. In addition, the parties request that the dispositive motion deadline and pre-trial order deadline be extended for an additional six (6) month as outlined herein. In support of this stipulation and request, the parties state as follows:

I. WHY THIS EXTENSION IS NECESSARY

Defendants represent and contend that on or about April 10, 2022, Wolfgang Hahn, counsel for the RWJ Defendants, fell ill apparently suffering a series of strokes while in his kitchen at home, and broke his skull and neck in the fall, and is suffering other related internal injuries. He was in the Intensive Care Unit at Scripps Hospital in La Jolla from said date, and under went three surgeries. He is breathing through trough a tracheotomy tube, and has not spoken since. On May 4, 2022, he was moved to a rehabilitation facility for therapy, including continuing physical and speech therapy. The RWJ Defendants are seeking to retain additional counsel to assist during Mr. Hahn's incapacity in both the defense of this case, and in the parallel action, including the cross-complaint pending before the Superior Court of the State of California, County of Los Angeles, entitled *RWJ Advanced Marketing, LLC, et al. v. Gopher Protocol, Inc., et al.* Case Number 19STCV03320, (the “State Court Action”). The Superior Court in the State Court Action has been made aware of Mr. Hahn's condition, and has set matters over to a Status and Trial Setting Conference on September 29, 2022, to track the state of Mr. Hahn's recovery. Since Petrey's defenses herein, and in the State Court Action, in significant part, are based upon the facts underlying the defenses of the RWJ Defendants, Petrey's defenses and its rights herein are materially impacted by Mr. Hahn's incapacity. By reason of the severity of Mr. Hahn's incapacity, which will prevent him from even assisting in the preparation of any such additional counsel, and the complexity of this case, Defendants are requesting this six (6) month extension of the discovery deadlines herein to enable the RWJ Defendants' to obtain such additional counsel, and to allow the parties to complete discovery and prepare this

1 matter for trial. There have been four (4) prior stipulated extensions of the discovery deadlines approved by this
 2 Court, and this fifth request is based upon the unexpected and exigent circumstances set forth above.

3 **II. RELEVANT PLEADINGS AND DISCOVERY COMPLETED TO DATE:**

4 1. On November 11, 2020, Plaintiff GBT Technologies, LLC filed its Complaint. ECF No. 1.

5 2. On December 23, 2021, Defendants filed their motion to dismiss. ECF No. 9.

6 3. On February 2, 2021, the Parties filed the Discovery Plan Scheduling Order pursuant to LR 26-1.
 7 ECF No. 32.

8 4. On April 16, 2021, Defendants' motion to dismiss was denied without prejudice. ECF No. 50.

9 5. On February 29, 2021, Plaintiff served initial disclosures.

10 6. On April 8, 2021, Defendant served three (3) notices of subpoenas.

11 7. Plaintiff served requests for production of documents on April 12, 2021 on Defendants RWJ
 12 Advanced Marketing, Gregory Bauer, and Robert Warren Jackson (collectively "RWJ Defendants").

13 8. On April 14, 2021, Plaintiff served eleven (11) notices to take deposition on Defendants and
 14 nonparties.

15 9. On April 15, 2021, all Defendants were notified of Plaintiff's intent to issue subpoena on
 16 Wolfgang Hahn, Esq. ("Hahn").

17 10. On April 25, 2021, Mr. Hahn, was personally served with the Plaintiff's Subpoena to Testify at
 18 a Deposition in a Civil Action and Produce Documents ("Subpoena").

19 11. On April 28, 2021, the Order Granting the Stipulation and Order to Extend Discovery Deadlines
 20 (First Request) was entered. ECF No. 56.

21 12. On April 30, 2021, Mr. Hahn, on behalf of RWJ Defendants, served a written objection of the
 22 Subpoena on Plaintiff. ECF No. 58-10.

23 13. On May 3, 2021, RWJ Defendants filed a motion in this matter to quash the subpoena of
 24 Wolfgang Hahn, Esq. ECF No. 57 (the "First Motion to Quash").

25 14. On May 18, 2021, Plaintiffs opposed the First Motion to Quash. ECF No. 61.

26 15. On June 14, 2021, the Court issued an order denying the motion to quash. ECF No. 65.

16. On June 15, 2021, Defendants filed a motion to compel discovery responses from RWJ Defendants because they had not produced documents responsive to Plaintiff's discovery requests which had been served at least three (3) months prior on April 12th.

17. On June 16, 2021, the RWJ Defendants finally produced documents responsive to Plaintiff's written discovery requests.

18. On June 23, 2021, Plaintiff served its First Amended Subpoena on RWJ Defendants' counsel and setting the date of compliance for a deposition as June 28, 2021.

19. On June 24, 2021, the RWJ Defendants initiated an action in the Southern District of California seeking again to quash the subpoena of Mr. Hahn (the “Second Motion to Quash”). However, the RWJ Defendants’ Second Motion to Quash was not a motion at all, but rather, a Declaration by Mr. Hahn in support of a putative Motion to Quash.

20. On June 25, 2021, the Southern District of California entered an Order Setting Briefing Schedule for the putative Second Motion to Quash.

21. On June 30, 2021, Defendants filed their third and final motion to quash (the “Third Motion to Quash”) which had not yet been decided.

22. On July 22, 2021, the Court denied Plaintiff’s motion to compel discovery based upon the representations of counsel for RWJ Defendants that his clients had already produced “all responsive documents” to Plaintiffs written discovery requests (ECF 72 at p. 2-3).

23. On July 23, 2021, this Court the parties stipulation and entered an order extending discovery deadlines.

24. On July 29, 2021 through August 11, 2021, the Plaintiffs deposed third-party witnesses Derron Winfrey, Mark Garner, and Brian Cox.

25. On September 9, 2021 through September 10, 2021, the Plaintiffs deposed Greg Bauer and Warren Jackson.

26. On September 9, 2021, Plaintiffs filed their motion to for temporary restraining order, preliminary injunction, and other equitable relief [ECF Nos. 74-75], which is still pending before the Court.

27. On September 14, 2021, Plaintiffs sent a request to counsel for RWJ Defendants seeking a supplement to their written discovery responses served in April 12, 2021 which failed to include critical bank statements.

28. As the date of this filing, the parties still disagree regarding Plaintiff's request for such supplement. Plaintiff contends that the RWJ Defendants have still not supplemented with the requested bank statements, however Defendant W.L. PETREY WHOLESALE COMPANY, INC. contends that it has produced all bank statements responsive to Plaintiff's requests that are within its possession and control, and the remaining RWJ Defendants contend that they have produced all of the bank statements which are relevant and to which Plaintiff is entitled, and the parties continue to meet and confer regarding this matter.

29. As of the date of this filing, the parties have participated in extensive document production consisting of many thousands of pages, both in this case and in the State Court Action, all of which Defendants contend is applicable in this case.

30. Defendants have not been successful in obtaining person service upon the deponent of the subpoenas noticed on April 8, 2021. However, in the State Court Action, on March 21, 2022, the RWJ Defendants properly noticed, pursuant to California Code of Civil Procedure Section 2025.230, the deposition of GBT's Person Most Knowledgeable, designated by GBT to be Michael Murray, setting said deposition and the production of documents related thereto, for April 13, 2022, which deposition and production, Defendants contend would be equally applicable to the evidence in this case. While GBT did produced documents, due to Mr. Hahn's injuries incapacity on or about April 10, 2022, by the agreement of the parties on April 11, 2022, the deposition was taken off calender to be reset pending on Mr. Hahn's availability, and by reason thereof, Defendants have not deposed any witnesses to date and have not retained any experts.

31. On May 2, 2022, Plaintiff filed and served it Notice of Service of its Initial Expert Witness Disclosure.

III. WHY REMAINING DISCOVERY HAS NOT BEEN COMPLETED:

Due to Mr. Hahn's injuries and incapacity, the RWJ Defendants, and hence Petrey, can not complete the necessary depositions, or any discovery at this point, prior to the June 20, 2022 discovery cut off date. The RWJ Defendants must first retain additional counsel to assist them during Mr. Hahn's incapacity in both the defense

1 of this case, and in the State Court Action. That attorney will need additional time to review and become familiar
 2 with the issue and evidence in this complex case, and the thousands of pages of documents that have been
 3 produced by all of the parties to date, in order to meaningfully provide assistance in the selection of an expert
 4 witness, and in completing the requisite discovery that yet needs to be done to prepare this matter for trial.

5 Both parties anticipate the use of expert witness, however in light of Mr. Hahn's injuries and incapacity
 6 the RWJ Defendants are unable to retain an expert witness without the assistance of additional retained counsel.
 7 In turn, Petrey, can not even determine, in the interest of economy and to avoid duplication of time and litigation
 8 expense, if it needs a separately retained expert witness, until the RWJ Defendants have retained their expert.
 9 Therefore, it is not practical at this point to close discovery without allowing the completion of discovery
 10 interrupted by Mr. Hahn's injuries and incapacity, including, the RWJ Defendants, and Petrey if necessary, to
 11 obtain an expert witness, so that the experts may be properly deposed. Therefore, the parties are unable to comply
 12 with the current deadlines and seek an extension.

13 IV. REMAINING DISCOVERY:

- 14 1. The Defendants may propound written discovery.
- 15 2. Defendants need to make expert disclosures.
- 16 3. Both parties needs to take the depositions of the Fed. R. Civ. Pro. 30(b)(6) designated agent(s).
- 17 4. Both parties may need to depose expert witnesses

18 V. EXTENSION OR MODIFICATION OF THE DISCOVERY PLAN AND SCHEDULING
 19 ORDER:

20 The parties acknowledge that the discovery cut-off is rapidly approaching. Defendants acknowledge
 21 that this Stipulation is filed within 21 days of the expiration of the date for Rebuttal Disclosure of Expert
 22 witnesses, however, the extent of Mr. Hahn's injuries and incapacity and their true effect upon Defendants
 23 ability to continue to meaningfully participate in scheduled discovery and their defense of this case were
 24 unknown until the GBT's filing of its Expert Witness Disclosure on May 2, 2022. Counsel for GBT and
 25 Petrey meet and conferred telephonically on May 3, 2022, regarding the exigency of this matter and all parties
 26 consent to the filing of this Stipulation and the extension herein requested. While the parties remain willing to
 27 attempt to meet the present discovery deadlines, in light of Mr. Hahn's injuries and incapacity, it is a practical
 28 impossibility and the parties believe therefor that scheduling and coordinating conducting depositions of

witnesses will not be feasible before the June 20, 2022 discovery cut-off. Therefore, the parties respectfully request that the modification of the scheduling order be granted. To that end, the following is a list of the current discovery deadlines and the parties' proposed extended deadlines:

ACTIVITY	DATE	PROPOSED DEADLINE
Rebuttal Disclosures	May 23, 2022	November 23, 2022
Discovery Cut-Off Date	June 20, 2022	December 20, 2022
Dispositive Motions	July 18, 2022	January 18, 2023
Joint Pretrial Order ¹	August 15, 2022	February 15, 2023

¹ If dispositive motions are filed, the deadline for filing the joint pretrial order will be suspended until 30 days after decision on the dispositive motions or further court order.

This request for extension of time is not sought for any improper purpose or other purpose of delay. This is the fifth request for extension of time in this matter. The parties respectfully submit that the reasons set forth above constitute compelling reasons for the discovery extension.

APPROVED AS TO FORM AND CONTENT this 6th day of May, 2022 by counsel of record:

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19 company, Robert Warren Jackson and
20 Gregory Bauer

21 ORDER

22 IT IS SO ORDERED this 11th day of May, 2021.

23 

24 UNITED STATES MAGISTRATE JUDGE